



Axminster Town Council



AXMINSTER TOWN COUNCIL WHISTLEBLOWING POLICY

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This is an example of an employment policy designed for a small council adhering to statutory minimum requirements and does not constitute legal advice.

As with all our policies it should be consistent with your terms and conditions of employment.

1. Policy

1.1 It is important that any fraud, misconduct or wrongdoing by officers, staff or others working on behalf of Axminster Town Council is reported and properly dealt with. The Council therefore requires all individuals to raise any concerns that they may have about the conduct of others in the Council.

This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with.

2. Background

2.1 The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 to provide protection for workers who raise legitimate concerns about specified matters in the public interest. These are called "qualifying disclosures". A qualifying disclosure is one made by an employee who has a reasonable belief that:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach of any other legal obligation
- concealment of any of the above

is being, has been, or is likely to be, committed. It is not necessary for an individual to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. Individuals have no responsibility for investigating the matter - it is the Council's responsibility to ensure that an investigation takes place.

2.2 If an individual makes a protected disclosure they have the right not to be dismissed, subjected to any other detriment, or victimised, because they have made a disclosure. The Council encourages individuals to raise their concerns under this procedure in the first instance.

3. Principles

3.1 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees and others working on behalf of the Council should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.

3.2 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the person who raised the issue.

3.3 No employee or other person working on behalf of the Council will be victimised for raising a matter under this procedure. This means that the continued employment and

opportunities for future promotion or training of the worker will not be prejudiced because they have raised a legitimate concern.

3.4 Victimisation of an individual for raising a qualified disclosure will be a disciplinary offence.

3.5 If misconduct is discovered as a result of any investigation under this procedure our disciplinary procedure will be used, in addition to any appropriate external measures.

3.6 Maliciously making a false allegation is a disciplinary offence.

3.7 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter to the Clerk or the Chair of the Employment Committee or the Mayor.

4. Procedure

4.1 If an individual believes a Councillor has breached the Councillor Code of Conduct, then they should raise it with the Mayor.

4.2 Serious concerns relating to an alleged breach of the Councillor Code of Conduct should be referred to the Monitoring Officer at EDDC for investigation.

4.3 This procedure is for disclosures about matters other than a breach of an employee's own contract of employment, which should be raised via the Grievance Procedure.

Stage 1

In the first instance, any concerns should be raised with the Clerk, who will arrange an investigation of the matter. The investigation may involve the employee and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out above. A statement will be taken into account, and employees will be asked to comment on any additional evidence obtained.

The Clerk (or delegated officer) will take any necessary action, including reporting the matter to the Council, or any appropriate government department or regulatory agency. The Clerk (or delegated officer) will also invoke any disciplinary action if required.

In the case of concerns raised regarding the Clerk, this process will be managed by the Chair of the Employment Committee.

On conclusion of any investigation, in so far as confidentiality allows, employees will be told the outcome and what the Council has done, or proposes to do, about it.
If no action is to be taken, the reason for this will be explained.

Stage 2

If employees are concerned that the Clerk is involved in the wrongdoing, has failed to make a proper investigation or has failed to report the outcome of the investigations to the relevant person, they should escalate the matter to the Chair of the Employment Committee or the Mayor. The Chair will arrange for a review of the investigation to be carried out, and make any necessary enquiries.

Stage 3

If on conclusion of stages 1 and 2 an employee reasonably believes that the appropriate action has not been taken, they should report the matter to the relevant body. This includes:

- HM Revenue & Customs
- The Health and Safety Executive
- The Environment Agency
- The Serious Fraud Office
- The Charity Commission
- The Pensions Regulator
- The Information Commissioner
- The Financial Conduct Authority

4.3 The full list can be found in The Public Interest Disclosure (Prescribed Persons) Order 2014: www.gov.uk/government/uploads/system/uploads/attachment_data/file/496899/BIS-16-79-blowing-the-whistle-to-a-prescribed-person.pdf

5. Data protection

5.1 When an employee makes a disclosure, the Council will process any personal data collected in accordance with the data protection policy. Data collected from the point at which the employee makes the report is held securely and accessed by, and disclosed to, individuals only for the purposes of dealing with the disclosure.

6. This is a non-contractual procedure which will be reviewed from time to time.

Date of policy: July 2021

Approving committee: Employment
Date of committee meeting: July 2021

Policy effective from: September 1st 2021
Date for next review: September 2022

Notes

1. The wording of this policy is based on an employee's statutory right to make a disclosure in the public interest. Adopting and applying this policy as it stands will support the Council to comply with this right.
2. Legal considerations
An employee making a genuine disclosure under this policy is protected from victimisation and any unfavourable treatment. If a member of staff believes they have been treated differently because they have made a disclosure, they may be able make a claim to an Employment Tribunal irrespective of whether they are a casual, fixed term worker, or an established member of staff.